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Criminal justice responses, including international cooperation, in investigations and prosecutions of perpetrators of migrant smuggling operations

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Background paper prepared by the Secretariat

I. Introduction

1. Pursuant to Conference of the Parties to the United Nations Convention against Transnational Organized Crime resolution 5/3, an open-ended intergovernmental interim working group on the smuggling of migrants was established to advise and assist the Conference in the implementation of its mandate with regard to the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime.

2. At its second meeting, held from 11 to 13 November 2013, the Working Group recommended to the Conference that criminal justice responses, including investigations and prosecutions of perpetrators of migrant smuggling operations, should be one of the topics considered at future meetings of the Working Group.[1]

3. The present background paper was prepared by the Secretariat to aid in the discussions of the Working Group at its fifth meeting. It contains suggestions for specific issues for discussion, provides an overview of the main issues and guidance for response by States and describes a number of recent initiatives in the area of international cooperation to combat the smuggling of migrants.

* CTOC/COP/WG.7/2018/1
[1] CTOC/COP/WG.7/2013/5

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II. Issues for discussion

4. The Working Group may wish to address the following issues, among others, in its discussions on criminal justice responses, including international cooperation, in investigations and prosecutions of perpetrators of migrant smuggling operations:

(a) How is the smuggling of migrants defined in national legislation? Are national definitions consistent with the definition set out in the Smuggling of Migrants Protocol? Have all forms of related conduct been established as criminal offences?

(b) What aggravating circumstances are recognized under domestic law?

(c) What are the elements of an effective criminal justice response to the smuggling of migrants, in accordance with the purpose and scope of the Smuggling of Migrants Protocol?

(d) What barriers exist to bringing high-level organizers of the smuggling of migrants to justice?

(e) How can practitioners efficiently gather information in the course of investigations into offences related to the smuggling of migrants, including through debriefing and interviewing smuggled migrants?

(f) How can practitioners conduct effective and lawful investigations into social media or other means of communication used by smugglers? How can national investigative authorities effectively and lawfully monitor and detect social media content relating to migrant-smuggling activities?

(g) What is the role of the criminal justice system in protecting the rights of smuggled migrants?

(h) What measures are effective in increasing the capacity of criminal justice practitioners to investigate and prosecute the smuggling of migrants, including in relation to the capacity of those practitioners to engage in international cooperation in criminal matters?

(i) What are good practices in strengthening cross-border investigations into migrant-smuggling cases?

III. Overview of issues and guidance for response

A. Elements of an effective criminal justice response to the smuggling of migrants

Criminalization

5. The criminalization by States parties of the smuggling of migrants, in accordance with their obligation under the Smuggling of Migrants Protocol, is a central element of any national criminal justice response. In article 3, paragraph (a), of the Protocol, the smuggling of migrants is defined as "the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident". In addition, in accordance with article 6, paragraph 1 (b) and (c), of the Protocol, States parties are required to establish as criminal offences, when committed intentionally and in order to obtain, directly or indirectly, a financial or other material benefit, the following conduct: (a) producing, procuring, providing or possessing a fraudulent travel or identity document for the purpose of enabling the smuggling of migrants; and (b) enabling a person who is not a national or a permanent resident to remain in a State by producing, procuring, providing or possessing a fraudulent travel or identity document or by any other illegal means.

6. The smuggling of migrants, as defined in article 3, paragraph (a), of the Protocol, is a crime of specific or special intent. Thus, there is no requirement for the financial

or other material benefit to have occurred: the crime of the smuggling of migrants is deemed to have been committed once the relevant physical elements are established along with an intention to obtain a benefit. It is therefore important to note that intention to benefit, rather than actual benefit, is the relevant consideration under the terms of the Protocol.

7. Similarly, it is important to note that the drafters of the Smuggling of Migrants Protocol elected to include "financial or other material benefit" not only as an element of the definition of the offence but also as a requirement for its criminalization. Indeed, the Protocol is clear with regard to the scope of the conduct it requires States to establish as criminal offences. Firstly, the requirement of an intention to secure a financial or other material benefit provided for in the definition of the smuggling of migrants was intended to exclude the criminalization of family members, non-governmental organizations or other support groups for activities to support migrants for humanitarian reasons rather than for profit. Secondly, the smuggled migrants themselves are not regarded as criminally liable under the Protocol; article 5 provides that migrants shall not become liable to criminal prosecution under the Protocol for the fact of having been the object of the smuggling of migrants.

8. States parties are also required, pursuant to article 6, paragraph 3, of the Protocol, to establish as aggravating circumstances to the offences established in accordance with article 6, paragraph 1 (a), (b) (i) and (c), any conduct that endangers, or is likely to endanger, the lives or safety of the migrants concerned, or that entails inhuman or degrading treatment, including for exploitation, of such migrants. They can do so by establishing parallel offences, such as an aggravated smuggling of migrants offence, or by inserting provisions that require courts to consider more severe penalties where aggravating circumstances are a factor in the offence.

9. It is a good practice for States to consider establishing aggravating circumstances other than those set out in the Protocol. States that have adopted that approach have included, inter alia, the following aggravating circumstances in their legislation: (a) the smuggling of a child, a pregnant woman or a person with a disability; (b) the commission of the offence while carrying arms; (c) the commission of the offence by a civil servant; (d) the commission of the offence by an organized criminal group; (e) the seizure or destruction of the travel or identity documents of the smuggled migrant; and (f) the smuggling of large numbers of migrants.

10. Depending on the domestic legislation, some aggravating circumstances may be investigated and prosecuted as distinct offences, for instance where violent treatment of migrants amounts to criminal assault, or where exploitation of smuggled migrants may amount to trafficking in persons. Given the serious impact that those offences have on smuggled migrants, States may wish to consider prioritizing the investigation and prosecution of the smuggling of migrants committed under such circumstances.

11. In order to provide an effective criminal justice response to the smuggling of migrants, it is important not to limit criminalization to completed offences but to extend it to failed attempts to smuggle migrants, and to hold those who participate as accomplices or facilitators criminally liable. It is also crucial to hold those who organize, direct or oversee migrant-smuggling ventures criminally liable. States parties to the Protocol should therefore ensure that their domestic legislation establishes as criminal offences attempting to commit, participating in and organizing or directing other persons to commit the offence of the smuggling of migrants, in accordance with article 6, paragraph 2, of the Protocol.

12. In criminalizing the smuggling of migrants, many States parties to the Protocol have not included a financial or other material benefit as an element of the offence of the procurement of illegal entry, despite the fact that that is a key component of the definition of smuggling of migrants provided in the Protocol. However, focusing on the financial or other material benefit in migrant-smuggling offences has a strategic value for investigations and the broader criminal justice response. The lack of payment of smuggling fees, or their repayment through labour, may indicate that trafficking in persons is taking place. In situations where smuggling is clearly being

undertaken for profit, a focus on the financial aspects of the smuggling crime can help contribute to prosecutions of the high-level organizers or organized criminal groups that may engage in the smuggling of migrants. Such an approach also supports the tracing, freezing and seizure of the assets of organizers, thereby offering an important opportunity to disrupt large smuggling operations.

13. Regardless of whether and how the profit or benefit motive is captured in national legislation, the criminal justice response to the smuggling of migrants should prioritize the investigation and prosecution of organized criminal networks and high-level operators.

A multidisciplinary approach to the smuggling of migrants

14. The specific characteristics of and challenges associated with the smuggling of migrants require the use of robust and tailored investigative and prosecutorial techniques. One promising technique is the so-called multidisciplinary approach. It involves close cooperation between various State authorities, as well as the cooperation of those authorities with other relevant stakeholders such as civil society and the private sector; Internet service providers and social media companies are good examples of the latter. In fact, the increased use of social media platforms at different stages of the crime of the smuggling of migrants calls for special attention in the course of investigations.

15. The purpose of the multidisciplinary approach is to map out the journeys taken by migrants from their homes to destination countries and to identify effective measures for disrupting migrant-smuggling ventures. Those measures will be diverse in nature and may include criminal law, administrative, tax-related and private-law instruments.

16. The investigation of the smuggling of migrants usually involves a variety of government departments and other entities and is not limited to law enforcement agencies. National coordination, consultation with key stakeholders and the building of partnerships are crucial in developing an effective criminal justice response. Consultation and partnership-building may be formalized through national coordination frameworks, memorandums of understanding or committee structures. It is also important that all agencies involved in combating the smuggling of migrants share information and communicate on a regular basis.

17. National efforts to counter the smuggling of migrants are often undermined by a lack of effective mechanisms for sharing information and coordinating operational activities among law enforcement agencies, border control authorities and other relevant stakeholders, such as those providing assistance to smuggled migrants.

18. Indeed, a comprehensive criminal justice response to the smuggling of migrants should include measures to protect smuggled migrants, who could also be victims of human rights abuses and exploitation, alongside appropriate measures to prosecute the smugglers. One of the purposes of the Protocol, as indicated in its article 2, is to protect the rights of smuggled migrants. After almost two decades of experience in the implementation of the Protocol, there is broad agreement on the need to strengthen measures to protect migrants and to allow them to play an effective role in the investigation and prosecution of smuggling cases, especially cases with aggravating circumstances.

19. There is therefore a need for States to develop collaborative, long-term, coordinated strategies and well-planned criminal justice interventions against the smuggling of migrants. Planning for action must be based on a sound assessment of both the problem and existing capacities of the criminal justice system to respond to it, and must be supported by a willingness on the part of the various services and agencies involved to cooperate with one another at the national level, and with counterparts at the regional and international levels.

20. Good practices in that regard include: (a) the establishment of multidisciplinary coordination mechanisms or bodies tasked with implementing a coordinated and

integrated national response to the smuggling of migrants; (b) the commitment of adequate resources to support the implementation of a national criminal justice response to the smuggling of migrants; (c) a clear and effective division of labour among government entities dealing with the smuggling of migrants; and (d) evidence that any coordination mechanism that is established adapts to changing circumstances identified through regular ongoing monitoring and evaluation.

21. It is important to regulate coordination, interaction, communication and referrals in the development of investigations into the smuggling of migrants. Standard operating procedures, guidelines or rules are very likely to be of great assistance. For instance, it is vital to regulate the timing of interventions and the role and referral duties of front-line law enforcement officers on the basis of information obtained during the debriefing of smuggled migrants. The same applies to cooperation between different law enforcement units and between those units and other State entities, such as labour, health and sanitation inspectorates. The level and type of regulation might vary according to the needs and specificities of the local context and national law.

22. States may wish to consider appointing a national rapporteur or establishing an equivalent mechanism to monitor the effects of implementation of national policies or action plans on the smuggling of migrants, systematically gather and analyse information from different stakeholders and promote cooperation between State authorities, international organizations, non-governmental organizations and civil society.

Response to the use by smugglers of web-based services and financial service providers

23. Smuggling networks often use online services and financial service providers at the various stages of the smuggling process. Collaboration between Governments and the providers of such services is therefore crucial for the successful investigation and prosecution of migrant smuggling operations.

24. The modus operandi of smuggling operations often includes the use of social media, both for recruitment and follow-up arrangements relating to the smuggling journey. Experience has shown that a number of social media platforms are used to advertise smuggling services, provide information on migration routes and facilitate communication between smugglers and smuggled migrants.[2] According to the European Union Agency for Law Enforcement Cooperation (Europol), the use of social media in migrant-smuggling activities has witnessed significant growth over recent years, as communication through such media is fast, easy and allows for better coordination between smugglers on changes in migration routes. Information found to be available on social media includes: specific travel options (including prices); contact details of smugglers; live updates on the progress made by other migrants on their journey; information on the course of action upon arrival in the country of destination, including how to behave in case of arrest and how to respond to the questions of the authorities; and the use of smartphones during the smuggling journey. As such, social media platforms have been described as a "marketplace" for smugglers and smuggled migrants.[3]

25. Moreover, because social media facilitates easier and faster access to up-to-date information, it has increased the capacity of smugglers to change routes in reaction to law enforcement responses in transit countries, thereby increasing the effectiveness of smuggling operations and hindering the investigation and prosecution of such crimes. It is therefore vital to increase the effectiveness of the criminal justice response and to establish incentives and partnerships to enable, where feasible and in

[2] European Migration Network, "The use of social media in the fight against migrant smuggling", (European Commission, September 2016)

[3] Ibid.

accordance with applicable legislation, online service providers to improve the monitoring, detection and reporting of smuggling-related content.

26. In addition, the criminal justice system is likely to require data held by online service providers and social media operators in order to further investigations into the smuggling of migrants. The extent to which it is possible to obtain such data will depend on national legislation (namely, laws on the processing and protection of personal data). It will also depend on any privacy protection contracts that may bind the stakeholders. For that reason, it is extremely important to forge partnerships between online service providers and law enforcement agencies, through which the latter may train the former to detect suspicious content. Online service providers and social media platforms may develop internal policies and systems to react to reports from users, or actively monitor content in order to remove information that relates to migrant-smuggling activities, and/or promptly refer such content to authorities, and/or block content of concern. At the same time, States should also carry out monitoring activities either to detect and request the removal of content related to the smuggling of migrants, or for investigative purposes.

27. The support provided by Europol to Member States in their monitoring activities is useful in developing the capabilities of those States to monitor the use of the Internet by migrant smugglers. The European Union Internet Referral Unit of Europol is aimed at supporting national authorities in their efforts to detect and, where appropriate, request the removal by online service providers of Internet content uploaded by smugglers.

28. It should be emphasized that there are significant challenges in monitoring and obtaining information from social media content, including: anonymity of users; closed accounts; restricted pages; encryption; use of the darknet; and limited resources and considerable costs, especially in view of the large amounts of data that need to be processed and that are written in different languages. The task is further complicated by the fact that a comprehensive algorithm to automate searches for content related to the smuggling of migrants has not yet been developed.[4]

29. Other essential private stakeholders in the context of the investigation and prosecution of the smuggling of migrants are financial service providers such as banks and private money-transfer operators. While it is becoming increasingly difficult to use the formal banking system to transfer and conceal proceeds of the smuggling of migrants, migrant smugglers are using legal money transfer agencies because of their worldwide accessibility and effectiveness.[5] Financial service providers may develop transaction monitoring techniques designed to detect migrant-smuggling activity. They may also use many of the existing controls they have in place to detect illicit proceeds.

30. Given their unique position and expertise — and with proper assistance from law enforcement agencies — financial service providers may be of great use in identifying and monitoring suspicious activity, and in referring that activity to the criminal justice system for further action. For instance, Western Union has established a global investigation network to allow for the monitoring, analysis and investigation of suspicious transactions and the referral of such transactions to law enforcement agencies, as appropriate.

31. Cooperation with financial service providers enables important evidence to be gathered as part of investigations into the smuggling of migrants. It is important to consider that the smuggling of migrants is a crime that is perpetrated for profit. Parallel financial investigations and the "follow-the-money" methodology are therefore key components in an effective criminal justice response to the smuggling of migrants.

[4] Ibid.

[5] European Migrant Smuggling Centre, "First year activity report: January 2016 – January 2017", (The Hague, Europol, 2017), p. 17.

Debriefing and interviewing smuggled migrants

32. A critical element of the investigation and prosecution of migrant smuggling operations is the capacity of criminal justice practitioners to effectively debrief and interview smuggled migrants. Those migrants possess unique information about the smuggling venture and it is therefore vital to actively seek their cooperation. However, smuggled migrants are often reluctant to cooperate with the criminal justice system. Many are inherently fearful of the authorities, given their irregular status with regard to entry or residence. They may fear retaliation from smugglers, directed against themselves or even against their families. They may also genuinely feel gratitude towards smugglers for the services provided, coupled with cultural or ethnic connections, or they may have entered into an agreement with smugglers allowing for renewed attempts to reach the country of destination in case of failure. Hence, it is important that State authorities provide the necessary protective measures and other incentives to migrants in order to build trust, provide reassurance and secure their collaboration.

33. The purpose of debriefing is to provide smuggled migrants with an opportunity to speak to law enforcement agencies and voluntarily provide information about the circumstances of their journey. Debriefing should be conducted by trained personnel, including trained law enforcement officers, as soon as possible after migrants are intercepted and/or arrive in the country of transit and/or destination, after any urgent assistance has been provided. The timing of debriefings is key, since it is likely that a person's account will be inaccurate after some time has passed, or they may be reluctant to give information, which increases the possibility that important information or evidence may be lost. Furthermore, as time elapses, there may be increased opportunities for smugglers to interfere in the debriefing process (for example, by offering to continue the smuggling venture, coaching migrants in their responses or threatening them).

34. Migrants who agree to testify against smugglers are often the best resource for prosecutors. Interviewing smuggled migrants as witnesses also requires particular sensitivity to ensure that trust is built between investigators and migrants and that migrants agree to testify. While the Smuggling of Migrants Protocol does not set out specific requirements regarding interviews of smuggled migrants, good practices include providing legal advice to migrants before they are interviewed to ensure that they are aware of the procedure and the consequences of the interview, recording the statements of smuggled migrants using written notes, video or audio equipment, and using specially trained professionals to interview children.

B. Strengthening the criminal justice response through international cooperation

35. The smuggling of migrants is, by its very nature, a transnational crime. Therefore, the key to an effective and comprehensive criminal justice response lies in strengthened international cooperation between States that are located along smuggling routes or that are otherwise affected by that criminal activity.

36. In addition to the specific framework of collaboration relating to the smuggling of migrants by sea, established by article 8 of the Smuggling of Migrants Protocol, article 10 of the Protocol requires States parties to exchange among themselves, consistent with their respective domestic legal and administrative systems, relevant information on matters relating to migrant smuggling operations that affect them.

37. States parties should also make full use of the provisions on international cooperation of the United Nations Convention against Transnational Organized Crime, such as those on extradition (art. 16) and mutual legal assistance (art. 18), which apply to the offences established in accordance with the Smuggling of Migrants Protocol. States should regularly exchange information and expertise, and facilitate direct communication between law enforcement actors in countries located along the same

smuggling routes. In the same vein, regional and transregional initiatives to create channels of communication among criminal justice practitioners, as well as measures that promote the use of joint investigation teams and judicial cooperation between countries of origin, transit and destination to combat the criminal networks involved in the smuggling of migrants, should be encouraged.

38. Good practices to promote international cooperation against the smuggling of migrants include: (a) regional and transregional initiatives to enhance cooperation in investigations into the smuggling of migrants along common routes; (b) the use of the Organized Crime Convention and the Smuggling of Migrants Protocol as bases for international cooperation in the absence of regional cooperation instruments or bilateral agreements; (c) the establishment and use of common platforms to share information among law enforcement agencies in different countries; and (d) the appointment of liaison officers to coordinate requests for assistance and information.

39. A number of promising initiatives to promote international cooperation against the smuggling of migrants are currently ongoing and should be highlighted. For example, international cooperation against the smuggling of migrants can be enhanced by strengthening the understanding of practitioners and their capacity to cooperate and exchange information within regional networks. In that respect, the Ibero-American Association of Public Prosecutors took a significant step in reinforcing international cooperation against the smuggling of migrants. In November 2017, the Association endorsed a revised version of its inter-institutional protocol to strengthen investigations and the care and protection of victims of trafficking, which was expanded to cover cooperation in cases of smuggling of migrants. The revised protocol provides for the exchange of information on good practices relating to the prevention of and fight against the smuggling of migrants, as well as the sharing of information on domestic judgments related to the crime.

40. With regard to international cooperation, the United Nations Office on Drugs and Crime (UNODC) promotes interaction and collaboration across borders to combat the smuggling of migrants in many regions of the world. The Office has, inter alia, supported the focal points of the Network of West African Central Authorities and Prosecutors against Organized Crime in enhancing their knowledge and analysis of the phenomenon of the smuggling of migrants. Connecting that Network or other regional networks with countries of origin, transit and destination outside the region would also assist States in achieving successful prosecutions in order to dismantle transregional smuggling networks.

41. Moreover, through its Regional Office for South-East Asia and the Pacific, UNODC has been working with a network of 30 investigators from nine countries in Asia through a combination of workshops and long-term mentoring. Those activities have strengthened working relationships among participating national agencies, reinforced information-sharing across the region and enabled data-sharing that has led to the identification of hitherto unknown migrant-smuggling routes.

42. The development of investigation protocols and action plans at the regional level to promote a common understanding of and responses to the smuggling of migrants and to guide investigative activity is also a good practice. In South-Eastern Europe, a region significantly affected in recent years by the smuggling of migrants, UNODC has supported a series of regional expert group meetings that have brought together criminal justice practitioners to exchange experiences and good practices in relation to the cross-border investigation and prosecution of the smuggling of migrants, focusing in particular on the detection and disruption of financial flows generated by that criminal activity. Those meetings have provided experts with an opportunity to engage in in-depth discussion of perspectives, challenges, good practices and achievements in their jurisdictions. The concrete outcome of those meetings will be a protocol summarizing activities undertaken to detect the smuggling of migrants, track financial flows and identify assets resulting from that crime. The protocol will be a valuable tool for enhancing cooperation among institutions and entities working to detect and suppress the smuggling of migrants in South-Eastern Europe.

43. Furthermore, the UNODC Regional Office for West and Central Africa is leading an innovative project aimed at increasing information-sharing and communication in investigations into the smuggling of migrants and other crimes in countries of origin, transit and destination. Under the project, a prosecutor from a country in Africa is sent to Sicily, Italy, with the aim of: (a) providing information on the legal framework in his or her country; (b) sharing background information on the criminal networks involved in the smuggling of migrants in his or her country; and (c) following up on formal requests for mutual legal assistance and extradition submitted through the appropriate channels. The expertise thus provided is aimed at strengthening mutual trust and improving understanding of the way in which criminals operate in the country in which the prosecutor works.

44. In addition, the prompt and reliable exchange of information between investigative authorities is vital for successful investigations. States should therefore exchange information on the basis of bilateral or multilateral agreements, or on a voluntary basis, in compliance with national legislation; effective channels of communication are paramount. An example of an established system of cooperation that facilitates the exchange of information at the regional level is the Europol system of analysis work files. Analysis work files are operational support tools for active investigations, in which information derived from the investigations conducted by member States is stored. Europol can then analyse the information contained in a file and provide that analysis to member States to enhance their investigations.

45. In addition, the complexity of investigating and prosecuting the smuggling of migrants calls for the regular training of criminal justice practitioners and investment by States in capacity-building. Training may cover a variety of subjects, such as how to recognize and detect fraudulent travel or identity documents, how to gather intelligence on organized criminal groups, the modus operandi of smugglers, how to identify smuggled migrants, the debriefing of migrants, the protection of migrants' rights, financial investigations and avenues for international law enforcement and judicial cooperation.

46. Joint capacity-building activities on the smuggling of migrants, involving participants from several countries, are also a means of reinforcing trust and strengthening cross-border communication channels. A good example of such efforts is the training workshop for the detection, investigation and prosecution of the smuggling of migrants, which was organized at a border crossing point by the UNODC Liaison and Partnership Office in Mexico and which brought together practitioners from the United States of America and Mexico. That bilateral training activity promoted interaction, information-sharing and international coordination among peers from the two countries. The workshop followed a new and innovative methodology, involving a simulation and a blended-learning approach, including the use of e-learning, with the overall aim of increasing investigations, prosecutions and convictions while protecting the rights of smuggled migrants.

47. Finally, exchange programmes between law enforcement agents in countries of origin and destination could: (a) promote capacity-building in the country of origin; (b) foster important cultural and linguistic knowledge regarding the country of origin that could be very useful to the country of destination; and (c) reinforce trust and build contacts that could be used at a later stage (through informal cooperation or as a basis to progressively develop effective formal cooperation).

IV. Key tools and recommended resources

48. The tools and resources listed below are all available on the UNODC website (www.unodc.org).

Toolkit to Combat Smuggling of Migrants

The UNODC *Toolkit to Combat Smuggling of Migrants* provides guidance, showcases promising practices and recommends resources in various thematic areas to assist

countries in implementing the Smuggling of Migrants Protocol. Tool 1 of the Toolkit provides an overview of the crime of smuggling of migrants. Tool 5 sets out the legislative framework for criminalizing the smuggling of migrants, and tool 7 covers law enforcement and prosecution.

Assessment Guide to the Criminal Justice Response to the Smuggling of Migrants

The UNODC *Assessment Guide to the Criminal Justice Response to the Smuggling of Migrants* contains a standardized and cross-referenced set of measures designed to enable Government officials in immigration, customs and law enforcement agencies and United Nations agencies, as well as other organizations, various industry actors and individuals, to conduct comprehensive assessments of national systems in order to identify areas of technical assistance, to assist in the design of interventions that incorporate international standards and norms on the prevention and suppression of the smuggling of migrants, and to assist in training on those issues.

Basic Training Manual on Investigating and Prosecuting the Smuggling of Migrants

The UNODC *Basic Training Manual on Investigating and Prosecuting the Smuggling of Migrants* is a practical guide and training tool for criminal justice practitioners around the world. Individual modules are designed to be readily adapted to the needs of different regions and countries and can serve as a basis for upgrading or supplementing the training programmes of national training institutes. Module 1, on concepts, and module 7, on legislative issues, are relevant to the criminalization of the smuggling of migrants and related conduct. Module 5 addresses special investigative techniques.

In-depth Training Manual on Investigating and Prosecuting the Smuggling of Migrants

The UNODC *In-depth Training Manual on Investigating and Prosecuting the Smuggling of Migrants* builds on the *Basic Training Manual* to promote a common understanding of relevant concepts and encourages States parties to adopt a mutually reinforcing approach in their responses to the smuggling of migrants, which is a form of transnational organized crime. The Manual offers a practical approach to the investigation and prosecution of the smuggling of migrants by providing promising practices relevant to all countries of origin, transit and destination, regardless of their legal system. Module 10 addresses special investigative techniques, while module 14 covers common legal issues in the investigation and prosecution of the smuggling of migrants.

Legislative Guides for the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols Thereto

The main purpose of the UNODC *Legislative Guides for the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols Thereto* is to assist States in implementing the Convention and its Protocols. The *Legislative Guides* address, inter alia, criminalization and other measures to combat money-laundering and corruption, and other provisions of the Organized Crime Convention.

An updated version can be found under the heading "Legislative guide" on the Sharing Electronic Resources and Laws on Crime knowledge management portal (https://sherloc.unodc.org).

International Framework for Action to Implement the Smuggling of Migrants Protocol

The UNODC *International Framework for Action to Implement the Smuggling of Migrants Protocol* is a technical assistance tool to help States parties and non-State actors to identify and address gaps in their response to the smuggling of migrants in

accordance with international standards. It draws on international instruments, political commitments, guidelines and best practices to propose a comprehensive approach to preventing and combating the smuggling of migrants. Part two of the *Framework for Action* contains an overview, in the form of four tables, of the following topics: prosecution and investigation; protection and assistance; prevention; and cooperation and coordination.

Model Law against the Smuggling of Migrants

The aim of the UNODC *Model Law against the Smuggling of Migrants* is to assist States in implementing the Smuggling of Migrants Protocol by facilitating the review and amendment of existing legislation and adoption of new legislation using model provisions. Its chapters cover the criminalization of the smuggling of migrants, protection and assistance measures in respect of smuggled migrants, coordination and cooperation between agencies, cooperation in respect of the smuggling of migrants at sea, and processes related to the return of smuggled migrants.

Smuggling of Migrants Knowledge Portal and case law database

In October 2016, UNODC launched the Smuggling of Migrants Knowledge Portal, which includes a case law database. The database is aimed at enabling judges, prosecutors, policymakers, the media, researchers and other interested parties to broaden their knowledge of how different States use their laws to combat the smuggling of migrants, with the ultimate goal of contributing to enhancing the global criminal justice response. The database is an essential tool for increasing the visibility of successful prosecutions, identifying global patterns and promoting awareness of the realities of that crime. The database currently consists of over 750 smuggling of migrants cases from 39 jurisdictions.

The Concept of "Financial or Other Material Benefit" in the Smuggling of Migrants Protocol: Issue Paper

Recognizing the critical importance of a common understanding of the internationally agreed definition of the smuggling of migrants, UNODC has undertaken a study on the "financial and other material benefit" element of that definition. The issue paper contains an examination of legislation and case law among a broadly representative group of States in order to gain a comparative perspective on how that aspect of the definition has been understood and applied. Particular attention is paid to the experiences and views of practitioners who are involved in investigating and prosecuting the smuggling of migrants and related crimes.

Organized Crime Involvement in Trafficking in Persons and Smuggling of Migrants: Issue Paper

UNODC commissioned the Institute for International Research on Criminal Policy of Ghent University, Belgium, to carry out a study into the involvement of organized criminal groups in trafficking in persons and the smuggling of migrants. The purpose of the study was to develop appropriate criminal justice responses to trafficking in persons and the smuggling of migrants as forms of organized crime that require a knowledge-based response.

Corruption and the Smuggling of Migrants: Issue Paper

The aim of this UNODC issue paper is to assist policymakers and practitioners in preventing and addressing corruption related to the smuggling of migrants. Rather than reviewing all successful practices in the prevention of the smuggling of migrants, it focuses more narrowly on the prevention of corruption activities that facilitate the smuggling of migrants or defeat efforts to control it. The issue paper contains a review of the available evidence on the links between corruption and the smuggling of migrants, including the way in which corruption facilitates the smuggling of migrants and undermines efforts to control it. It covers different forms of corruption associated

with the smuggling of migrants in both the public and private sectors, and contains examples of cases of the smuggling of migrants that involved corruption.

The Role of Organized Crime in the Smuggling of Migrants from West Africa to the European Union

This UNODC report contributes to a better understanding of the underlying mechanisms and actors involved in the smuggling of migrants and serves as a basis for policy reforms in the countries in West Africa that it covers. The report is aimed primarily at decision makers, law enforcement and judicial officials, but also at a wider audience interested in irregular migration.

Digest of Organized Crime Cases

The aim of the UNODC *Digest of Organized Crime Cases* is to provide policymakers and criminal justice practitioners with an analysis of concrete cases and related good practices. The *Digest* explains all the stages of the criminal justice response, including legislation, investigation, prosecution and adjudication, as well as international cooperation. Through the use of illustrative cases, the *Digest* sets out the successes of and difficulties encountered by practitioners, and contains a reflection on the current situation with regard to efforts to combat organized crime around the world.

Mutual Legal Assistance Request Writer Tool

The UNODC Mutual Legal Assistance Request Writer Tool is a tool to assist States in drafting requests for international cooperation and assistance. It can be used by persons with virtually no previous knowledge of or experience in drafting assistance requests. It guides users step by step through the request process for each type of mutual assistance using a series of templates, consolidates all data entered and automatically generates a correct, complete and effective request for final editing and signature. The Tool can be adjusted to any country's substantive and procedural law, enables users to retrieve information on treaties and national legislation and features a case-management tracking system for incoming and outgoing requests.